

REMARKS

Claims 1-12 are pending in the present Application. Claims 1 and 5 have been amended, claims 11 and 12 has been canceled, and no claims have been added, leaving claims 1-10 for consideration upon entry of the present amendment.

The Applicant thanks the Examiner for withdrawal of the rejection of claim 11 in the Office Action dated April 18, 2007, and for the indication that claim 11 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims, and the statement of allowable subject matter.

Accordingly, independent claims 1 and 5 have been amended to correct the recited acid value limitation of "10 to 30 mgKOH/g" to "15 to 30 mgKOH/g". Support for the amendment can be found at least in claim 11, and in the Specification at least on p. 5, line 17, and p. 9, line 21.

No new matter has been introduced with these amendments. In view of the Examiner's indication of allowable subject matter for claim 11 if rewritten in independent form, inclusion of the limitations of claim 11 in claim 1 provides claim 11 in independent form, and therefore complies with a requirement of form expressly set forth in the Office action. In addition, amending claim 5, which is a method of making the acryl-modified polyester resin composition of claim 1, also provides claim 11 in an independent form as understood by applicants to comply with a requirement of form expressly set forth in the Office action, and so does not introduce any new matter as antecedent basis for the amendment is present in the claims. In addition, amending claim 5 to include the limitations of claim 11 should place the claim in better form for appeal, based on the above proper amendments to claim 1, and therefore should be enterable as an amendment after final under 37 C.F.R. § 1.116.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 1-10 stand rejected under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Publication No. 2004/0044117 A1 ("Liptak"). Applicants respectfully traverse this rejection over the above-mentioned amendments to Claims 1 and 5.

Liptak teaches a composition for coating food cans that comprises a polyester, an acrylic

copolymer and a crosslinker. (see Abstract) Liptak also discloses an acid value of “less than about 10” mg KOH/g for the polyester resin. See p. 1, paragraph [0008].

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

Independent Claims 1 and 5 have each been amended to include the limitations of Claim 11, specifically the limitation “15 to 30 mgKOH/g”. As noted by the Examiner, “the prior art does not teach or suggest the acryl-modified polyester resin having the structure and properties as recited in independent claim 1, and further having a hydroxyl value of about 1 to 20 mgKOH/g and an acid value of 15 to 30 mgKOH/g.” (Office Action dated April 18, 2007).

Because the prior art, as noted by the Examiner, does not teach all elements of the Applicant’s claims (as amended), Claims 1 and 5, and their dependents, are not anticipated by Liptak. Reconsideration and allowance are respectfully requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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